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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,337	04/20/2000	Richard R. Reisman	2222.4310003	5134
26111 7590 11/30/2012 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER PEYTON, TAMMARA R				
ART UNIT		PAPER NUMBER		
2184				
MAIL DATE		DELIVERY MODE		
11/30/2012		PAPER		

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD R. REISMAN

Appeal 2011-004918
Application 09/553,337
Technology Center 2100

Before MAHSHID D. SAADAT, ERIC B. CHEN, and
BRYAN F. MOORE, *Administrative Patent Judges*.

CHEN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the final rejection of claims 114-122, 124-126, 128-141, 143-145, 147-155, 157-161, 163-173, 175-179, and 181-202. Claims 1-113, 123, 127, 142, 146, 156, 162, 174, and 180 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellant's invention relates to software stored on a computer-readable storage medium at a user station that provides a function of an online service selector, enabling a user at the user station to select any one of multiple available online service providers. A communications function establishes a communication link between the user station and the selected online service providers. (Abstract.)

Claim 114 is exemplary, with disputed limitations in *italics*:

114. A computer program product comprising a tangible computer-readable medium having instructions stored thereon, the instructions comprising:

first instructions, executable at a user station, for selecting among a plurality of available online services to support an application function, wherein the first instructions form *an application programming interface (API) configured to provide a generic client interface for communicating a functional request associated with the application function to any one of the plurality of available online services*;

second instructions, executable at the user station, for directing the establishment and use of a communication link between the user station and an online service selected from the plurality of available online services; and

third instructions, executable at the user station, for presenting a graphical user interface, generating the functional request, and communicating the functional request to the online service using the API,

wherein portions of the third instructions are downloaded from the online service, and

wherein the third instructions receive via the API *a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.*

Claims 114, 116-122, 124-126, 128-131, 133-141, 143-145, 147-150, 152, 153-155, 157-161, 163-172, 173, 175-179, and 181-202 stand rejected under 35 U.S.C. § 103(a) as being obvious over Kleinerman (U.S. Patent No. 5,734,871; Mar. 31, 1998), RIPscrip (TeleGrafix Communications, *RIPscrip Graphics Protocol Specification* (1993)), Microsoft (Microsoft Press Computer Dictionary (2nd ed. 1993)), and Zellweger (U.S. Patent No. 5,630,125; May 13, 1997).

Claims 115, 132, 151, 154, 172, and 175-190 stand rejected under 35 U.S.C. § 103(a) as being obvious over Kleinerman, RIPscrip, Microsoft, Zellweger, and Pettus (U.S. Patent No. 6,031,977; Feb. 29, 2000).

ANALYSIS

We are unpersuaded by Appellant's arguments (App. Br. 11-13) that the combination of Kleinerman, RIPscrip, Microsoft, and Zellweger would not have rendered obvious independent claim 114, which includes the limitation "an application programming interface (API) configured to provide a generic client interface for communicating a functional request associated with the application function to any one of the plurality of available online services."

The Examiner found that the Application Program Interface (API) of Kleinerman corresponds to the claimed "an application programming

interface (API) configured to provide a generic client interface for communicating a functional request associated with the application function to any one of the plurality of available online services.” (Ans. 9-10; Kleinerman, Abstract.) We agree with the Examiner.

Kleinerman relates to the execution of computer programs. (Col. 1, ll. 24-25.) Kleinerman explains that one or more computer application programs (i.e., the claimed “functional request”) are simultaneously executed in one or more host computer systems (i.e., the claimed “client”) under the control of a second computer system that performs operations on data and instructions (i.e., the claimed “the plurality of available online services”) (Abstract), which includes use of an Application Program Interface (API) for controlling devices (col. 18, ll. 29-31).

Therefore, we agree with the Examiner that the combination of Kleinerman, RIPscrip, Microsoft, and Zellweger teaches the limitation “an application programming interface (API) configured to provide a generic client interface for communicating a functional request associated with the application function to any one of the plurality of available online services.”

We are also unpersuaded by Appellant’s arguments (App. Br. 13) that the combination of Kleinerman, RIPscrip, Microsoft, and Zellweger would not have rendered obvious independent claim 114, which includes the limitation “a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.”

The Examiner found that the seamless migration between the host computer and the second computer of Kleinerman, implemented by the managers (i.e., the API, the Watch Host Patterns, the Central Event

Manager, the Window Manager, the Presentation Manager, and the Communications Manager) and Application Interface Modules (AIMs) of Kleinerman, corresponds to the limitation “a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.” (Ans. 10, 17-18; Kleinerman, col. 9, ll. 10-13, 20-15.) We agree with the Examiner.

As noted by the Examiner (Ans. 18-19), Appellant’s Specification explains that “[u]pdating can also be totally automatic, and . . . be *completely invisible to or transparent to the user, running in background on their system*, while the user’s screen is available for other processing such as running the containing information product 12” (emphasis added). (Spec. 12:23-26.) Under the broadest reasonable interpretation consistent with the Specification, we interpret “background” as meaning “completely invisible to or transparent to the user.”

Kleinerman explains that by interposing AIMs between users and host programs (col. 9, ll. 10-13) provides a “‘seamless’ migration for the user community across changes to the host system, applications and the host system application programs on the connectivity requirements between the host and the secondary computer” (col. 9, ll. 21-25). Furthermore, “[a] multiuser multitasking host computer employing the present invention and using the secondary computer as a terminal can continue to be a node in a networking environment, should the user’s needs require a network.” (Col. 6, ll. 28-31.) Kleinerman also explains that when the AIM is invoked (col. 17, ll. 31-37), a session window remains “invisible to the user” (col. 18, ll. 3-9). Because Kleinerman describes a seamless migration for the user in the host system, a multitasking host computer, and the creation of a session

window “invisible to the user” during the interaction between the AIM and the host system, Kleinerman teaches the limitation “a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.”

Thus, we agree with the Examiner that the combination of Kleinerman, RIPscrip, Microsoft, and Zellweger would have rendered obvious independent claim 114, which includes the limitation “a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.”

Accordingly, we sustain the rejection of independent claim 114 under 35 U.S.C. § 103(a).¹ Claims 116-122, 124-126, and 128-131, depend from claim 114, and Appellant has not presented any substantive arguments with respect to these claims. Therefore, we sustain the rejection of claims 116-122, 124-126, and 128-131 under 35 U.S.C. § 103(a), for the same reasons discussed with respect to independent claim 114.

Independent claims 133, 153, and 171 recite limitations similar to those discussed with respect to independent claim 114, and Appellant has not presented any substantive arguments with respect to these claims. We sustain the rejection of claims 133, 153, and 171, as well as dependent claims 134-141, 143-145, 147-150, 152, 154, 155, 157-161, 163-170, 172, 173, 175-179, and 181-202, for the same reasons discussed with respect to claim 114.

¹ We do not reach the merits of the Examiner’s reliance on official notice (Ans. 10-11) because as discussed previously, Kleinerman teaches the claim limitation “a response to the functional request from the online service in the background, thereby permitting the graphical user interface to continue operation.”

Although Appellant nominally argues the rejection of dependent claims 115, 132, 151, 154, 172, and 175-190 separately (App. Br. 15-16), the arguments presented do not point out with sufficient particularity or explain why the limitations of the dependent claims are separately patentable. Instead, Appellant summarily alleges that “[d]ependent claims 115, 132, 151, 154, 172, and 175-190 are similarly not rendered unpatentable over the combination of RIPscrip, Microsoft, Zellweger, Kleinerman, and Pettus for at least the same reasons as claims 114, 133, 153, and 171.” (*Id.*) We are not persuaded by these arguments for the reasons discussed with respect to claims 114, 133, 153, and 171, from which claims 115, 132, 151, 154, 172, and 175-190 depend. Accordingly, we sustain this rejection.

DECISION

The Examiner’s decision to reject claims 114-122, 124-126, 128-141, 143-145, 147-155, 157-161, 163-173, 175-179, and 181-202 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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